



0 4 FEB 2008

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE CA 95131

In re Application of :
Klootwijk et al. :
Application No. 10/588,836 :
PCT No.: PCT/IB2005/050528 :
Int. Filing Date: 11 February 2005 :
Eff. Priority Date: 11 February 2004 : DECISION
Atty. Docket No.: US040064US2 :
For: Integrated Optical Wave Guide For :
Light Generated By A Bipolar Transistor :

This is in response to the correspondence filed on 17 December 2007.

BACKGROUND

This international application was filed on 11 February 2005, claimed an earlier priority date of 11 February 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 25 August 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 August 2006. Applicants filed, *inter alia*, the basic national fee on 08 August 2006.

On 16 April 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 07 August 2007, applicants filed a response which included payment of the surcharge and referred to an executed declaration.

On 15 January 2008, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, reflecting a 35 U.S.C. 371(c)(1), (2) and (4) date of "08/07/2007."

DISCUSSION

Review of the application file reveals that, though the response filed on 07 August 2007 referred to an executed declaration, no copy of a declaration filed on 07 August 2007 is currently present in the electronic application file. On 17 December 2007, applicants filed the instant correspondence, including a Transmittal Letter which refers to a copy of a response filed on 07 August 2007. It appears that applicants may be attempting to provide a copy of a declaration and a showing that it was originally filed on 07 August 2007. However, the submission has not been executed by a registered practitioner, and it does not include a clear request for relief. Thus, to the extent that the 17 January 2008 submission is construed as a petition, that constructive petition is dismissed, without prejudice. Applicants may wish to consider filing a proper petition in response to this decision. In the absence of such a petition, since an acceptable declaration

does not appear to have been filed as of 07 August 2007, the Notice of Acceptance mailed on 15 January 2008 was inappropriate, and it is hereby **VACATED**.

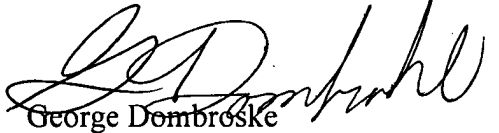
It is also noted that the declaration filed on 17 December 2007 nominates Freddy Roozeboom, in place of "ROOZEBOOM, Fred" nominated in the published international application. Since this clearly represents more than a mere typographical error or phonetic misspelling, a petition under 37 CFR 1.182 is required in order for this declaration to be accepted. See MPEP 605.04(b).

DECISION

The petition is **DISMISSED**, without prejudice, as explained *supra*.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response. Failure to timely reply will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.


George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459